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THE BROADBAND ASSOCIATION

August 15, 2011

SUPPLEMENTAL EX PARTE

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On June 21, 2011, Eric Einhorn and Mike Rhoda (Windstream), Kathy Grillo (Verizon), Michael Saperstein (Frontier), Hank Hultquist (AT&T) and the undersigned met with Zac Katz (Office of Chairman Genachowski), Michael Steffen (Office of the General Counsel) and Patrick Hailey, Sharon Gillett, Rebekah Goodheart and Carol Mattey (Wireline Competition Bureau). We discussed several issues relating to comprehensive reform of the current universal service funding and intercarrier compensation systems. In particular, we discussed how to ensure that intercarrier compensation reform properly accounts for the potential to create incentives for behavior in the states, including state efforts to reform intercarrier rates and to create or maintain state universal service funds that may interfere with the efficient implementation of reform. We also discussed how intercarrier compensation reform can fit into a longer-term vision of an all-IP network by lowering per minute compensation for TDM calls and moving the PSTN compensation model closer to that of today's Internet.

In addition, we discussed legal theories underlying the reduction of current intercarrier rates. We explored the Commission's ability to use its rulemaking authority under section 251(b)(5) to adopt a uniform rate for all traffic routed to or from the PSTN. In addition to section 251(b)(5), the Commission can rely on sections 201 and 332 to assert authority over all traffic on the PSTN. We discussed the inseverability doctrine and applying it to conclude that all traffic routed to or from the PSTN is within the Commission's jurisdiction.

We also discussed the Commission's ability to select $0.0007 per minute as the ultimate terminating rate because that rate is already the default rate for a substantial portion of traffic that carriers exchange today. In addition, a rate of $0.0007 per minute is also consistent with the rates contained in some recently negotiated agreements between ILECs and CLECs. Courts and the Commission have repeatedly recognized that rates negotiated through voluntary, arms-length negotiations are just and reasonable rates.

The Commission also has authority to adopt reasonable interim rules to ease the transition to a unified intercarrier compensation regime. In a variety of different contexts – including intercarrier compensation – the Commission has found it appropriate to adopt transitional mechanisms that advance its policy goals, while avoiding a "flash cut" to the end state of the new policy regime.

Regarding universal service reform, we discussed how to properly model rate transitions given declining access minutes for both interstate and intrastate traffic. We also discussed how to ensure transparency of any modeling efforts by providing access to any model and inputs that would allow parties to gain a sufficient understanding of the logic and operation of the model. In addition, we discussed how to create efficiency incentives for fund recipients operating on a rate-of-return basis.

Pursuant to Commission rules, please include a copy of this filing in each of the above-referenced dockets.

Sincerely,

Jonathan Banks

Jonathan Banks

c: Zachary Katz
Michael Steffen
Patrick Hailey
Sharon Gillett
Rebekah Goodheart
Carol Mattey